

Part 1b: R-5 Area

Regulations applicable to those portions of the Property marked R-5 Area.

Chapter 27.19 (modified)

R-5 Area—~~RESIDENTIAL DISTRICT~~

Sections:

- 27.19.010 Scope of Regulations.**
- 27.19.020 Use Regulations.**
- 27.19.030 Permitted Conditional Uses.**
- 27.19.040 Permitted Special Uses.**
- 27.19.050 Accessory Uses.**
- 27.19.060 Parking Regulations.**
- 27.19.070 Sign Regulations.**
- 27.19.075 Grading and Land Disturbance Regulations.**
- 27.19.080 Height and Area Regulations.**
- 27.19.090 Neighborhood Design Standards.**

This district is intended to provide a redeveloping area of moderate residential density of between six and ten dwelling units per acre. This district provides for single-family, two-family, and multiple and townhouse residential uses, plus support facilities, such as schools, parks, community buildings, and churches.

27.19.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the R-5 ~~Area Residential District~~. (Ord. 12571 §125; May 8, 1979).

27.19.020 Use Regulations.

A building or premises shall be permitted to be used for the following purposes in the R-5 ~~Area Residential District~~:

- (a) Single-family dwellings;
- (b) Two-family dwellings;
- (c) Multiple dwellings;
- (d) Townhouses;
- (e) Parks, playgrounds, and community buildings owned or operated by a public agency;

- (f) Public libraries;
- (g) ~~Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school and having no rooms regularly used for housing or sleeping purposes.~~ (Ord. 12571 §126; May 8, 1979);
- (h) Dwellings for members of religious orders;
- (i) Elderly or retirement housing;
- (j) Children's homes;
- (k) Farming and the sale of farm produce;
- (l) Health care facilities, including hospitals; convalescent or nursing homes; facility for out-patient physical, occupational, or vocational therapy or rehabilitation; public health clinics and facilities, and ambulatory surgical care centers;
- (m) Office;
- (n) Nonprofit religious, educational, and philanthropic institutions;
- (o) Conservation uses that are protected by a written conservation easement.

27.19.030 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the R-5 ~~Area Residential District~~ in conformance with the conditions prescribed herein:

- (a) Churches:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) Required side and rear yards shall be fifteen feet or the same as the district, whichever is greater.
- (b) Group homes:
 - (1) Group homes shall comply with all sign, height and area regulations of the district, and all provisions of the minimum standard housing ordinance. Parking shall be regulated in conformance with the requirements of Chapter 27.67;
 - (2) The distance between the proposed use and any existing group home measured from lot line to lot line is not less than 1,200 feet;
 - (3) Such use shall be permitted only so long as the facility continues to be validly licensed by the State of Nebraska.
- (c) Early childhood care facilities in churches:
 - (1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;
 - (2) Such facilities shall comply with all applicable state and local early childhood care requirements;
 - (3) Such facilities shall comply with all applicable building and life safety code requirements;
 - (4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;
 - (5) Such facilities must receive a conditional use permit from the Department of Building and Safety.
- (d) Domestic shelter:
 - (1) Parking shall be in conformance with Chapter 27.67;
 - (2) The maximum number of residents occupying such a facility shall not exceed one person per 750 square feet of lot area;
 - (3) The distance between the proposed use and any existing domestic shelter

measured from lot line to lot line shall not be less than one mile.

(e) Early childhood care facilities with a maximum of fifteen children present at anytime:

(1) The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code and the design standards for early childhood care facilities;

(2) Such facilities shall comply with all applicable state and local early childhood care requirements;

(3) Such facilities shall comply with all applicable building and life safety code requirements;

(4) Such facilities shall be fenced and have play areas that comply with the design standards for early childhood care facilities;

(5) Such facilities shall be used as the permanent residence of the licensed child care provider;

(6) Such facilities with thirteen or more children must receive a conditional use permit from the Department of Building and Safety;

(7) Early childhood care facilities located in mobile homes shall have a severe weather emergency action plan approved by the Health Department. (Ord. 18476 §9; December 13, 2004; prior Ord. 16854 §14; August 14, 1995; Ord. 15751 §7; October 15, 1990; Ord. 14060 §3; February 25, 1985; Ord. 13302 §5, February 1, 1982; Ord. 12571 §127; May 8, 1979).

27.19.040 Permitted Special Uses.

A building or premises may be used for the following purposes in the R-5 Area Residential District if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63:

(a) ~~Intentionally omitted; Private schools, other than those permitted under Section 27.19.020(g) above;~~

(b) Health care facilities for sixteen or more people residing which receive therapy, counseling, or rehabilitation for physical, emotional, or mental disease or disability;

(c) ~~Intentionally omitted; Dwellings for members of religious orders;~~

(d) Recreational facilities;

(e) Church steeples, amateur radio antenna installations, towers, and ornamental spires which exceed the maximum district height;

(f) Broadcast towers;

(g) Certain parking lots as defined in Chapter 27.63;

(h) Clubs;

(i) ~~Intentionally omitted; Elderly or retirement housing;~~

(j) Community unit plans in conformance with Chapter 27.65;

(k) Expansion of nonconforming uses;

(l) Historic preservation;

(m) Public utility purposes;

(n) Wind energy conversion systems;

(o) Housing and related facilities for the physically handicapped;

(p) Outdoor seasonal sales;

(q) Cemeteries;

(r) Domiciliary care facility;

(s) Expansion of nonstandard single and two-family dwellings into required yards;

(t) Early childhood care facilities with sixteen or more children, or with fifteen or fewer children not meeting the specified conditions for a permitted conditional use under Section 27.19.030;

(u) Neighborhood support services;

(v) Connection of single-family dwelling to accessory building for the physically handicapped;

(w) Alternative to imprisonment facilities;

(x) ~~Children's homes. Intentionally omitted.~~ (Ord. 18535 §11; May 9, 2005; prior Ord. 18476 §10; December 13, 2004: Ord. 16854 §15; August 14, 1995: Ord. 16820 §5; July 10, 1995: Ord. 16673 §9; September 26, 1994: Ord. 15371 §5; December 18, 1989: Ord. 15368 §7; December 18, 1989: Ord. 14815 §4; January 4, 1988: Ord. 14780 §6; November 2, 1987: Ord. 14767 §5; October 12, 1987: Ords. 14475, 14510, 14562, as amended by Ord. 14644 §7; April 13, 1987: Ord. 14074 §3; April 8, 1985: Ord. 13980 §1; October 29, 1984: Ord. 13588 §6; May 9, 1983: Ord. 13546 §6; February 28, 1983: Ord. 12978 §7; August 25, 1980: Ord. 12894 §7; April 7, 1980: Ord. 12571 §128; May 8, 1979).

27.19.050 Accessory Uses.

Accessory uses permitted in the R-5 ~~Area Residential District~~ are accessory buildings and uses customarily incident to the above uses, including storage garages where the lot is occupied by a multiple dwelling. (Ord. 12571 §129; May 8, 1979).

27.19.060 Parking Regulations.

All parking within the R-5 ~~Area Residential District~~ shall be in conformance with the provisions of Chapter 27.67. (Ord. 12571 §130; May 8, 1979).

27.19.070 Sign Regulations.

Signs within the R-5 ~~Area Residential District~~ shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §131; May 8, 1979).

27.19.075 Grading and Land Disturbance Regulations.

Grading and land disturbance within the R-5 ~~Area Residential District~~ shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §8; February 22, 2000.)

27.19.080 Height and Area Regulations.

The maximum height and minimum lot requirements within the R-5 ~~Area Residential District~~ shall be as follows:

(a) General requirements:

Table 27.19.080(a)						
	Lot Area (Sq. ft.)	Avg. Lot Width	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwelling, single-family	5,000	50'	25 <u>10</u> '	5'	*	35'
Dwelling, two-family	2,500 per family	25' per family	25 <u>0</u> '	5' or 0' on party wall	*	35'

Townhouses	2,500-1,000 per family	20' per family	200'	or party floor 7' or 10' if over 20' in height 40' or 0' on party wall or party floor	*	345'
Dwelling, Multiple	1,500 per unit	50'	2010'	7' or 10' if over 20' in height or 0' on party wall or party floor	*	3560'
Conservation Uses	5,000	0'	0'	0'	0'	35'
Other permitted uses	5,000	50'	20'	5'	*	35'
* Smaller of 310' or 20% of depth. See note (c) below.						

(b) There shall be a 300 feet setback from a building containing a Section 27.51.030(c)(3) use involving Hazardous Materials located in any I-3 Area.

(c) Notwithstanding any contrary provision herein, when a lot abuts a recorded conservation easement area, there shall not be a minimum required side yard or required rear yard abutting the recorded conservation easement.

(db) There shall be a required front yard on each street side of a double-frontage lot.

(ec) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on November 2, 1953, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards. Where corner lots are separated by a common rear lot line, the minimum required yard shall be ten feet on the side along the street adjacent to both corner lots.

(df) Open space requirements for residential use: open space will be provided in the recorded conservation easement area. A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:

125 square feet for the first dwelling unit;

80 square feet per unit for each additional dwelling unit beyond one.

This open space requirement may be met in the following manner:

(1) The required rear yard may be counted; however, the required front and side yards may not be counted toward the fulfillment of said open space requirement; except for ground level or first floor level porches, patios, and terraces as permitted in Sections 27.71.100 and 27.71.110;

(2) Parking spaces, and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement;

~~(3) The depth to width ratio of any area used to fulfill the open space requirement may not exceed three to one, if the smallest dimension of the open space is twelve feet or less.~~

(eg) Accessory buildings which are attached to or not located more than six feet from the main structure shall be considered a part of the main structure and shall comply with the height, front, side, and rear yard requirements of the main building. Accessory buildings not a part of the main structure may be located in the required rear yard, but such accessory buildings may not occupy more than forty percent of the required rear yard and shall not be nearer than two feet to any side or rear lot line, nor more than fifteen feet in height. Accessory buildings not a part of the main structure, if located not less than sixty feet from the front lot line, may extend into the required side yard though not nearer than two feet to the side lot line. A garage which is entered from an alley shall not be located closer than ten feet to the alley line.

(fh) Where a lot of record as of November 2, 1953, has less area or width or both less area and width than herein required and its boundary lines along their entire length abutted lands under other ownership on November 2, 1953, and have not since been changed, the lot may be used for a single-family dwelling, two-family dwelling, or for any nondwelling use permitted in this chapter. (Ord. 17664 §3; May 1, 2000: prior Ord. 16971 §2; April 22, 1996: Ord. 14447 §5; July 28, 1986: Ord. 13929 §5; August 27, 1985: Ord. 12751 §5; September 5, 1979: Ord. 12701 §1; October 2, 1979: Ord. 12571 §132; May 8, 1979).

27.19.090 Neighborhood Design Standards.

Each application for a building permit for new construction of a principal building on property located within the Lincoln city limits as of December 31, 1949 shall comply with the neighborhood design standards. (Ord. 18305 §5; February 23, 2004: prior Ord. 17664 §4; May 1, 2000).

Part 1c: B-2 Area

Regulations applicable to those portions of the Property marked B-2 Area.

Chapter 27.31 (modified)

B-2 Area ~~PLANNED NEIGHBORHOOD BUSINESS DISTRICT~~

Sections:

27.31.010	Scope of Regulations.
27.31.020	General Purpose.
27.31.030	Permitted Uses.
27.31.040	Permitted Conditional Uses.
27.31.050	Permitted Special Uses.
27.31.060	Accessory Uses.
27.31.070	Parking Regulations.
27.31.080	Sign Regulations.
27.31.085	Grading and Land Disturbance Regulations.
27.31.090	Height and Area Regulations.
27.31.100	Use Permits, Procedures and Requirements <u>Intentionally Deleted.</u>
27.31.110	<u>Architectural Design Standards.</u>

This district is intended to provide a developing area for planned retail, service and office uses to serve neighborhoods. This district includes a PUD Permit ~~use permit provision~~ to provide for the integration of the business area with adjacent residential areas and thus reduce the adverse impact on residential areas through enhanced design.

27.31.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the regulations in the B-2 ~~Area Planned Neighborhood Business District~~. (Ord. 12571 §165; May 8, 1979).

27.31.020 General Purpose.

The regulations for the B-2 ~~Area Planned Neighborhood Business District~~ set forth in this chapter are established to permit the development of local retail shopping, services and office facilities and related activities which will provide for planned and controlled consumer services on a neighborhood level, promote healthful economic growth, create a desirable environment, best complement the general land use pattern of the community, and assist in implementing the

established goals and policies of the community. (Ord. 12571 §166; May 8, 1979).

27.31.030 Permitted Uses.

~~Any development, including building and open land uses, except farming and the sale of farm produce, shall be prohibited in the B-2 Planned Neighborhood Business District prior to the approval of a use permit in conformance with the requirements of this chapter. B-2 Planned Neighborhood Business District zoning shall not be permitted or granted upon any property having a total area of less than five acres. A building or premises shall be used only for the following purposes in the B-2 Planned Neighborhood Business District~~**B-2 Area:**

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;
- (f) Banks, savings and loan associations, credit unions, and finance companies;
- (g) Garden centers;
- (h) Barber shops, beauty parlors, and shoeshine shops;
- (i) Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery schools;
- (j) Service stations;
- (k) Hospitals and clinics for animals, but not open kennels;
- (l) Self-service laundromats;
- (m) Receiving stores for dry cleaning or laundry;
- (n) Dry cleaning or laundry establishments, provided that the floor area does not exceed 2,000 square feet exclusive of office and pickup space.
- (o) Messenger and telegraph stations;
- (p) Office buildings;
- (q) Restaurants;
- (r) Stores or shops for the sale of goods at retail, but not including motor vehicles;
- (s) Undertaking establishments;
- (t) Photography studios;
- (u) Bicycle sales and repair shops;
- (v) Key shops;
- (w) Ambulance services;
- (x) Clubs;
- (y) Enclosed commercial recreational facilities;
- (z) Tailor shops, shoe repair shops, upholstery shops, printing and photocopying shops, or other, similar business establishments;
- (aa) Community colleges, colleges, or other post-secondary education facilities;
- (bb) Farming and the sale of farm produce;
- (cc) Health care facilities, including hospitals; convalescent or nursing homes; facility for out-patient physical, occupational, or vocational therapy or rehabilitation; public health clinics and facilities, and ambulatory surgical care centers;

(dd) Lumberyard and home improvement;

(ee) Commercial Building.

(Ord. 18345 §1; April 26, 2004: prior Ord. 17320 §2; April 20, 1998: Ord. 16962 §2; March 25, 1996: Ord. 16767 §5; April 10, 1995: Ord. 16593 §2; April 11, 1994: Ord. 14626 §2; March 16, 1987: Ord. 13736, as amended by Ord. 13745 §2; January 3, 1984: Ord. 12571 §167; May 8, 1979).

27.31.040 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the B-2 ~~Area Planned Neighborhood Business District~~ in conformance with the conditions prescribed herein:

(a) Automobile wash facility:

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(2) Self-service, coin-operated car wash: The car wash facility shall not exceed four wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(b) Motels and hotels:

(1) A distance of at least twenty feet shall be maintained between buildings on the lot;

(2) Each hotel or motel unit shall have a minimum enclosed floor area of 200 square feet.

(c) Dwellings, provided that:

- (1) Dwellings shall only be permitted above the first story of a building;
- (2) The first story shall be used for a nondwelling use permitted in the district;
- (3) Said nondwelling use shall not:
 - (i) ~~be accessory to the residential use;~~
 - (ii) ~~be a parking lot or garage.~~
- (4) Said first story shall not have more than twenty percent of its height below grade.

(d) Early childhood care facilities:

- (1) Such facilities shall comply with all applicable state and local early childhood care requirements;
- (2) Such facilities shall comply with all building and life safety code requirements.
- (3) Such facilities shall be fenced and have play areas that comply with the design

standards for early childhood care facilities.

(e) Tents and other temporary structures: Tents or other temporary structures shall be permitted for the temporary or seasonal sales of goods at retail under the following conditions:

(1) A tent or other temporary structure shall not reduce the amount of on-site parking to less than the minimum required;

(2) A tent or other temporary structure shall not remain on the premises for more than 180 consecutive days;

(3) A tent or other temporary structure shall comply with all applicable building and life safety codes;

A tent or other temporary structure need not be shown on the approved use-permit-PUD Permit site plan.

(f) Sale of alcoholic beverages for consumption on the premises:

(1) When the building containing the licensed premises abuts a residential district, the required yards shall be met; provided that the side yard adjacent to such building shall be 50 feet.

(2) Parking shall be in conformance with the provisions of Chapter 27.67; provided that no parking spaces shall be located in that portion of any required side yard or rear yard of the building containing the licensed premises that abuts a residential district.

(3) Any exterior door opening must meet the following conditions:

(i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district, then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation. For purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall face of the building containing the licensed premises that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public or membership access to the licensed premises. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for public or membership access in the ordinary course of business.

(4) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

(5) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are

directed, such as personal pagers, beepers, or telephones.

(6) Notwithstanding any contrary provision contained in Section 27.31.100, the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.

(g) Sale of alcoholic beverages for consumption off the premises:

(1) When the building containing the licensed premises abuts a residential district, the required yards shall be met; provided that the side yard adjacent to such building shall be 50 feet.

(2) Parking shall be in conformance with the provisions of Chapter 27.67; provided that no parking spaces shall be located in that portion of any required side yard or rear yard of the building containing the licensed premises that abuts a residential district.

(3) Any exterior door opening must meet the following conditions:

(i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation. For purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall face of the building containing the licensed premises that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public or membership access to the licensed premises. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for public or membership access in the ordinary course of business.

(4) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

(5) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

(6) Notwithstanding any contrary provision contained in Section 27.31.100, the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council. (Ord. 18345 §2; April 26,

2004: prior Ord. 17364 §1; June 29, 1998: Ord. 17051 §1; August 26, 1996: Ord. 16926 §2; February 5, 1996: Ord. 16854 §30; August 14, 1995: Ord. 13344 §2; March 29, 1982: Ord. 12571

§168; May 8, 1979).

27.31.050 Permitted Special Uses.

A building or premises may be used for the following purposes in the B-2 Area ~~B-2 Planned Neighborhood Business District~~ if a special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

- (a) Health care facilities for sixteen or more people residing which receive therapy, counseling, or rehabilitation of physical, emotional, or mental disease or disability;
- (b) Recreational facilities;
- (c) Broadcast towers;
- (d) Extraction of sand, gravel, and soil;
- (e) Church steeples, towers, and ornamental spires which exceed the maximum height permitted in the B-2 Area ~~B-2 Planned Neighborhood Business District~~;
- (f) Expansion of nonconforming uses;
- (g) Historic preservation;
- (h) Public utility purposes;
- (i) Wind energy conversion systems;
- (j) Cemeteries;
- (k) Mail order catalog sales. (Ord. 18229 §3; August 18, 2003; prior Ord. 16144 §5; July 6, 1992; prior Ord. 14378 §10; May 5, 1986; Ord. 14138 §10; June 1, 1985; Ord. 12978 §15; August 25, 1980; Ord. 12894 §18; April 7, 1980; Ord. 12571 §169; May 8, 1979).

27.31.060 Accessory Uses.

Accessory uses permitted in the B-2 Area ~~B-2 Planned Neighborhood Business District~~ are accessory buildings and uses customarily incident to the permitted uses. (Ord. 12571 §170; May 8, 1979).

27.31.070 Parking Regulations.

All parking within the B-2 Area ~~B-2 Planned Neighborhood Business District~~ shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 12571 §171; May 8, 1979).

27.31.080 Sign Regulations.

Signs within the B-2 Area ~~B-2 Planned Neighborhood Business District~~ shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 12571 §172; May 8, 1979).

27.31.085 Grading and Land Disturbance Regulations.

Grading and land disturbance within the B-2 Area ~~B-2 Planned Neighborhood Business District~~ shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §17; February 22, 2000.)

27.31.090 Height and Area Regulations.

The maximum height and minimum lot requirements within the B-2 Area ~~Planned Neighborhood~~

~~Business District~~ shall be as follows:

(a) General requirements:

**Table
27.31.090(a)**

	Lot Area (Sq. ft.)	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
Dwellings	2,000 per unit	<u>50'</u> **	20'	50'	40'
Other Permitted Uses**	0	<u>50'</u> **	0', 20'* when abutting residential district	0', 50'* when abutting residential district	40'

- * When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards adopted by the City of Lincoln.
- ** The required setbacks are shown on the Southwest Village B-2 PUD Site Plan.

- (b) There shall be a required front yard on each street side of a double frontage lot;
- (c) There shall be a required front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record on April 29, 1963, need not be reduced to less than twenty-eight feet except where necessary to provide a required side yard of not less than five feet in place of one of the required front yards;
- (d) Accessory buildings shall not extend into any required yard;
- (e) Open space requirements for residential use: A minimum amount of usable and accessible open space must be provided for each residential use. This requirement shall be as follows:
 - 125 square feet for the first dwelling unit;
 - 80 square feet per unit for the next four dwelling units;
 - 25 square feet per unit for the next four dwelling units;
 - 20 square feet per unit for each additional dwelling unitbeyond nine. This open space requirement may be met in the following manner:
 - (1) The required rear yard may be counted; however, the required front and side yards may not be counted toward fulfillment of said open space requirement, except for porches, balconies, and terraces as permitted in Sections 27.71.100 and 27.71.110;
 - (2) Parking spaces, and land occupied by any building or structure may not be counted toward fulfillment of this open space requirement;
 - (3) Required open space may be provided either on a balcony four or more feet in depth or on a rooftop; provided, the roof is designed and surfaced in such a manner that it may be developed with areas of planting, open space, recreation, and other uses that are consistent with similar uses in ground-level side and rear yards for dwellings. Such rooftop areas may not be occupied by structures such as vents, exhaust intakes, or other mechanical devices, except where they do not interfere with the usable nature of the open space.
 - (4) The depth-to-width ratio of any area used to fulfill the open space requirement may not exceed three to one if the smallest dimension of the open space is twelve feet or less. (Ord.12571 §173; May 8, 1979).

23.31.100 Intentionally Deleted Use Permit Procedures and Requirements.

~~(a) Minimum requirements: No use permit shall be granted upon any property having a total area of less than five acres, except as provided under Section 27.31.100(k), nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any such use permits. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the B-2 Planned Neighborhood Business District shall apply.~~

~~(b) — Application requirements: Applications for a use permit under this section shall be filed by the owner in writing on a form provided by the city with the Planning Department. A preliminary plan shall accompany each application and shall include the following information:~~

- ~~(1) — Boundary survey and gross acreage;~~
- ~~(2) — Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on 100-foot grid shall be required to fully indicate the topography on flat land;~~
- ~~(3) — Street right of way;~~
- ~~(4) — Utility easements;~~
- ~~(5) — Adjacent land use and zoning classifications;~~
- ~~(6) — Location of structures on property;~~
- ~~(7) — Vicinity map;~~
- ~~(8) — Date prepared, scale and north point;~~
- ~~(9) — Schematic and location of buildings;~~
- ~~(10) — Parking areas and capacity;~~
- ~~(11) — Open Space for residential uses;~~
- ~~(12) — Use of buildings, such as retail, service, restaurant, office, residential and other uses;~~
- ~~(13) — Height of buildings;~~
- ~~(14) — Location of existing trees and proposed landscape plan;~~
- ~~(15) — Proposed vehicular and pedestrian circulation system including egress and~~
- ~~(16) — Building and parking setback lines;~~
- ~~(17) — Grading plan;~~
- ~~(18) — On-site and off-site water and sanitary sewer improvements;~~
- ~~(19) — On-site and off-site drainage and storm sewer improvements;~~
- ~~(20) — Location of proposed free-standing signs;~~
- ~~(21) — Cross-section for paving of parking lots and sidewalks;~~
- ~~(22) — Proposed name of the shopping center;~~
- ~~(23) — Name, address, and telephone number of developer; certified~~

~~record owner or owners and addresses; and legal description of the proposed use permit area, including the number of acres.~~

~~(c) — Environmental performance standards: Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.~~

~~(d) — Landscape plan: Each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, malls, parking areas and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.~~

~~(e) — Planning Commission review: Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the~~

proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

~~(f) — Planning Commission action: After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the application no later than the commission's next regularly scheduled meeting.~~

~~(g) — Appeal of Planning Commission action:~~

~~(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.~~

~~(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.~~

~~(3) The City Council may, after public hearing, in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the action of the Planning Commission appealed from.~~

~~(h) — Adjustment of yard requirements and height restrictions: Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of adjacent land uses. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the use permit and the adjustment.~~

~~(i) — Amendment: The Planning Director is authorized to approve amendments to any use permit granted under this section, provided that:~~

~~(1) — A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (b)~~

~~above which is pertinent to the proposed amendment;~~

- ~~(2) — Such amendment shall not violate any provisions of this title.~~
- ~~(3) — Such amendment may provide for minor increases in total floor area, and storage space originally permitted;~~
- ~~(4) — There is no increase in the number of dwelling units;~~
- ~~(5) — No reduction is made to the applicable setback or yard requirements;~~
- ~~(6) — No public land is accepted;~~
- ~~(7) — Such amendment shall not be contrary to the general purpose of this section as specified in Section 27.31.020;~~
- ~~(8) — Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original application for a use permit.~~

~~(j) — Building permits, certificates of occupancy, and certificates of compliance: Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.~~

~~(k) — Preexisting uses: An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.~~

~~(l) — A use permit may be granted for a lot of less than five acres, provided:~~

- ~~(1) — The lot was legally created prior to the effective date of this ordinance;~~
- ~~(2) — The lot has remained under separate ownership from adjoining~~

~~properties in the B-2 district.~~

~~The Planning Commission may, under the above conditions, adjust the requirements under paragraph (b) to permit the applicant a reasonable use of his property.~~

~~(m) — If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit. (Ord. 17857 §3; June~~

~~4, 2001; prior Ord. 16766 §4; April 10, 1995; Ord. 16284 §2; December 14, 1992; Ord. 15239 §2; August 7, 1989; Ord. 13528 §2; January 3, 1983; Ord. 13078 §1; January 12, 1981; Ord. 12751 §14; November 5, 1979; Ord. 12571 §174; May 8, 1979).~~

27.31.110 Architectural Design Standards.

(a) The buildings located within the B-2 Area shall comply with the Architectural Design Standards that are attached hereto as Exhibit "A".

(b) All buildings within the B-2 Area shall be subject to the Architectural Design Standards. Each building's elevation shall be first submitted to the property owner's architectural review committee for review and approval. Then a letter of approval from the architectural review committee (which shall describe how the elevations conform to the Architectural Design Standards) along with the building elevations shall be submitted to the Planning Director for review and approval, prior to issuance of a building permit.

Part 1d: I-3 Area

Regulations applicable to those portions of the Property marked I-3 Area.

Chapter 27.51 (modified)

I-3 Area ~~Employment Center District~~

Sections:

27.51.010	Scope of Regulations.
27.51.020	General Purpose.
27.51.030	Use Regulations.
27.51.040	Permitted Conditional Uses.
27.51.050	Permitted Special Uses.
27.51.060	Accessory Uses.
27.51.070	Parking Regulations.
27.51.080	Sign Regulations.
27.51.085	Grading and Land Disturbance Regulations.
27.51.090	Height and Area Regulations.
27.51.100	Use Permit Section. <u>Intentionally Deleted.</u>
27.51.110	<u>Architectural Design Standards.</u>

27.51.010 Scope of Regulations.

The regulations set forth in this chapter, or set forth elsewhere in this title when referred to in this chapter, are the district regulations in the I-3 ~~Area Employment Center District~~. (Ord. 17232 § 1; August 18, 1997).

27.51.020 General Purpose.

The regulations for the I-3 ~~Area Employment Center District~~ set forth in this chapter are established to permit the development of attractive office and light industrial facilities as employment centers for location of plant facilities or headquarters of major employers. The I-3 ~~Area Employment Center District~~ is also intended to provide such employment centers with the surrounding support uses, including complementary office and retail use complementing the general land use pattern of the community and assisting the implementation of the adopted goals and policies of the community. (Ord. 17232 § 2; August 18, 1997).

27.51.030 Use Regulations.

(a) General Regulations. Any development, including building and open land uses, except farming and the sale of farm products, shall be prohibited in the I-3 Employment Center District prior to the approval of a use ~~PUD p~~ Permit, in conformance with the requirements of this chapter. ~~I-3 Employment Center District zoning shall not be~~

~~permitted or granted upon any property having a total area of less than fifty (50) acres, provided an area of at least 75 acres is designated as an Employment Center in the Comprehensive Plan, nor in any location not designated as an Employment Center in the Comprehensive Plan.~~

(b) Specific Regulations.

(1) The aggregate retail and service uses permitted in subsection (c) below shall not exceed ~~twenty-three~~ thirty percent (~~23~~30%) of the buildable square footage of the land included within the boundaries of the I-3 Area of the use-permit PUD Permit assuming a floor-to-area ratio of one to four. Similarly, the aggregate office use permitted in subsection (c) below shall not exceed ~~thirty-five~~ thirty-five percent (~~35~~35%) of the buildable square footage of the land included within the boundaries of the I-3 Area of the use-permit PUD Permit assuming a floor-to-area ratio of one to four.

(2) The total of all retail, service, office, post-secondary education facilities, nonprofit religious, educational, and philanthropic institutions permitted in subsection (c) below and early childhood care facilities specially permitted in Section 27.51.050 below shall not in the aggregate exceed ~~fifty-sixty-five~~ fifty-sixty-five percent (~~56.5~~56.5%) of the buildable square footage of the land included within the boundaries of the I-3 Area of the use-permit PUD Permit assuming a floor-to-area ratio of one to four.

(3) Notwithstanding ~~(b)(1) and (b)(2)~~ above, 75,000 square feet or more of floor area used by a single office user shall not be subject to the ~~thirty-five~~ thirty-five percent (~~35~~35%) and ~~fifty-sixty-five~~ fifty-sixty-five percent (~~56.5~~56.5%) limitations. Hotel and motels are permitted uses and shall not be counted towards the percentages stated in this section or in (b)(1) and (b)(2) above.

(4) Those conditional and special uses permitted in Sections 27.51.040 and 27.51.050 below shall be limited by the restrictions placed thereon.

(5) All uses shall comply with all applicable ordinances and regulations including such environmental performance standards relating to noise, emission, dust, odor, glare, and heat as may be approved by resolution of the City Council.

(6) No galvanized or other raw metal sheeting shall be used for the exterior construction of any building. No painted galvanized or other painted metal sheeting shall be used for more than seventy percent (70%) of the exterior construction of a building on any side of such building which is visible from an abutting public street.

(c) Permitted Uses. Subject to the general and specific regulations above, a building or premises may be used for the following purposes in the I-3 Area~~Employment Center District~~:

- (1) Retail and serviceuse;
- (2) Officebuildings;
- (3) Production, manufacturing, assembly, processing, warehousing, storage, distribution, or transportation of goods and materials, except:
 - (i) The refining, distillation, or manufacture of:
 - A. Acids or alcohols;
 - B. Ammonia, bleach, or chlorine;
 - C. Asphalt, tar, or products made therewith, including roofing or waterproofing;
 - D. Cement, lime, gypsum, or plaster of paris;
 - E. Disinfectants;
 - F. Dyestuffs;
 - G. Fertilizer;

- H. Glue, sizing, or gelatin;
- I. Oilcloth, linoleum, oiled rubber goods;
- J. Paint, shellac, turpentine, or oils;
- K. Rubber, gutta-percha, balata, creosote, or products treated therewith;
- L. Shoe polish;
- (ii) The operation of:
 - A. Bag cleaning works;
 - B. Blast furnaces, coke ovens, smelting or ore reduction works; C. Boiler works;
 - D. Forges;
 - E. Rolling mills;
 - F. Yeast plants;
- (iii) Production, manufacture, processing, distribution, and storage, warehousing, or transportation of toxic, radioactive, flammable, or explosive materials, except that any of the above referenced materials may be stored or used in connection with a permitted use as allowed by any ordinances or regulations of the City of Lincoln as incidental to the permitted use;
- (iv) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat; distillation of bones, coals or wood;
- (v) Dumping or reduction of garbage, offal, or dead animals;
- (vi) The manufacture of acetylene, or the transfer of the gas from one container to another, or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic feet at standard temperature and pressure;
- (vii) Mining, quarrying, stone milling, or rock crushing;
- (viii) Extraction of sand, gravel, or soil;
- (ix) The milling, processing, refining, or distillation of agricultural crops.
- (4) Community colleges, colleges, or other post-secondary education facilities;
- (5) Private schools;
- (6) Nonprofit religious, educational and philanthropic institutions;
- (7) Farming and the sale of farm produce.
- (8) Health care facilities, including hospitals; convalescent or nursing homes; facility for out-patient physical, occupational, or vocational therapy or rehabilitation; public health clinics and facilities, and ambulatory surgical care centers;
- (9) Conservation uses that are protected by a written conservation easement.

(Ord. 17907 §1; August 27, 2001: prior Ord. 17232 § 3; August 18, 1997).

27.51.040 Permitted Conditional Uses.

A building or premises may be used for the following purposes in the I-3

Area Employment Center District in conformance with the conditions prescribed herein:

(a) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable liquids and chemicals. Such use shall:

(1) Be adequately screened from public view;

(2) Be for storage of such materials for use on the premises and not for resale, except that resale of such stored material at retail only shall be permitted in conjunction with the operation of a service station or similar retail outlet pursuant to Section 27.51.070;

(3) Be located, constructed, maintained, and operated in compliance with all codes and regulations of the City of Lincoln;

(b) Liquefied petroleum, gas and similar gas used for fuel stored in tanks above ground, provided:

(1) Such tanks may not exceed 30,000 gallon capacity;

(2) Such gas shall be used for use on the premises, and not for resale;

(3) Such tanks shall be adequately screened from public view by a fire-resistant ventilated barrier which shall be at least six feet in height;

(4) Such use must be in full compliance with all codes and regulations of the City of Lincoln;

(c) All other combustible materials:

(1) Combustible materials shall be stored in such a way as to permit free access of fire-fighting equipment;

(2) Such use must be in full compliance with all codes and regulations of the City of Lincoln;

(d) Motels and hotels:

(1) A distance of at least twenty feet shall be maintained between buildings on the lot;

(2) Each hotel or motel unit shall have a minimum enclosed floor area of 200 feet², provided that the total square footage of such use shall not exceed ten percent (10%) of the buildable square footage of the tract of land included within the boundaries of the use permit assuming a floor-to-area ratio of one to four.

Accessory uses operated by a concessionaire or lessee of an employer may occupy no more than five percent (5%) of the floor area of the permitted use.

(e) Automobile wash facility:

(1) Automatic, conveyor-operated: The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(2) Self-service, coin-operated car wash: The car wash facility shall not exceed four wash bays. The length and location of vehicle stacking lane or lanes for the approach side or sides and the exit side or sides of the wash operation shall be in conformance with the "Guidelines and Regulations for Driveway Design and Location" as adopted by the City of Lincoln. The stacking space shall not be located within the required front yard.

(f) Church:

(1) The church shall develop an emergency response plan to the satisfaction of the Health Department, both written and drawn, including a house-in-place scenario and an off-site evacuation. The Health Department may provide technical assistance in this matter.

(2) The church shall, within 48 hours of becoming aware that quantities of hazardous materials requiring a permit under Section 19.03.100 of the Lincoln Municipal Code are being stored, transported, dispensed, used, or handled on property within 300 feet of the building area being used for the church, notify the Health Department of such condition. Following such notification, the church shall, in cooperation and consultation with the Health Department, attempt to work with the owner of property upon which such hazardous materials are being stored, transported, dispensed, used or handled to arrive at a means to assure the health, safety, and welfare of persons using the church's property. The church shall further cooperate with the Health Department in determining measures which may be taken on the church's property to protect the health safety, and welfare of persons using the church's property, including, but not limited to, establishment of training programs for employees to assure detection of hazardous materials and evacuation of the premises, installation of filtration systems in the HVAC system of the building, or other precautionary measures.

(3) The electrical breaker switch of the heating, ventilation and air conditioning (HVAC) system shall be clearly marked and readily accessible at all times to the church's staff or the church shall equip the building with not more than two emergency shut-off switches so the HVAC system can be immediately shut down in the case of a hazardous chemical spill in the area to the satisfaction of the Health Department. The shut-off switch shall be located so that it is easily accessible at all times to the church's staff. The church's staff shall be trained on how to locate and operate the electrical breaker switch or the emergency shut-off switch. (Ord. 18438 §7; September 20, 2004; prior Ord. 17232 § 4; August 18, 1997).

(g) Sale of alcoholic beverages for consumption on the premises:

(1) When the building containing the licensed premises abuts a residential district, the required yards shall be met; provided that the side yard adjacent to such building shall be 50 feet.

(2) Parking shall be in conformance with the provisions of Chapter 27.67; provided that no parking spaces shall be located in that portion of any required side yard or rear yard of the building containing the licensed premises that abuts a residential district.

(3) Any exterior door opening must meet the following conditions:

(i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district, then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation. For purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall face of the building

containing the licensed premises that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public or membership access to the licenses premises. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for public or membership access in the ordinary course of business.

(4) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

(5) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

(6) Notwithstanding any contrary provision contained in Section 27.31.100, the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.

(h) Sale of alcoholic beverages for consumption off the premises:

(1) When the building containing the licensed premises abuts a residential district, the required yards shall be met; provided that the side yard adjacent to such building shall be 50 feet.

(2) Parking shall be in conformance with the provisions of Chapter 27.67; provided that no parking spaces shall be located in that portion of any required side yard or rear yard of the building containing the licensed premises that abuts a residential district.

(3) Any exterior door opening must meet the following conditions:

(i) Be located at least 100 feet (as measured by the shortest, most direct distance) from a day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or a residential district; provided that, if there is an intervening exterior wall of the building containing the licensed premises between the exterior door opening and such day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), then the 100 feet shall be measured from the exterior door opening, along the exterior base of the building wall(s) to the point where there is no intervening exterior building wall, and from that point the shortest, most direct distance to the day care facility, church, state mental health institution, park (excluding golf courses and hiker/biker trails), or residential district.

(ii) If the exterior door opening faces a residential district, then such opening shall be at least 150 feet from a residential district as measured by the shortest, most direct perpendicular distance. The exterior door shall not be kept or propped open during the hours of operation. For purposes of this section, "exterior door opening" shall mean (A) that portion of the exterior wall face of the building containing the licensed premises that contains a break to accommodate the exterior building door, door frame, door vestibule, or door entryway area; and (B) provides public or membership access to the licenses premises. "Exterior door opening" shall not apply to openings for emergency exit doors required by building or safety codes, loading doors or unloading doors that are not available for public or membership access in the ordinary course of business.

(4) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.

(5) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.

(6) Notwithstanding any contrary provision contained in Section 27.31.100, the yard requirements, the parking location requirements, and the exterior door opening location requirements in this section shall not be adjusted by the City Council.

(i) Dwellings, provided that:

(1) Dwellings shall only be permitted above the first story of a retail, service or office building;

(2) The first story shall be used for a nondwelling use permitted in the district;

(3) Said nondwelling use shall not:

(i) be a parking lot or garage.

(4) Said first story shall not have more than twenty percent of its height below grade.

27.51.050 Permitted Special Uses.

A building or premises may be used for the following purposes in the I-3 ~~Area Employment Center District~~ if a special permit for such use has been obtained in conformance with the requirements of this chapter and Chapter 27.63:

(a) Broadcast tower;

(b) ~~Sale of alcoholic beverages for consumption on the premises, provided the locational requirements of Section 27.63.680 have been met~~ Intentionally omitted;

(c) ~~Intentionally omitted Sale of alcoholic beverages for consumption off the premises, provided the locational requirements of Section 27.63.685 have been met;~~

(d) Early childhood care facilities;

(e) Public elementary and high schools or private schools having a curriculum equivalent to a public elementary or public high school;

(f) Sexually oriented live entertainment establishments. (Ord. 17731 §11; September 25, 2000; prior Ord. 17232 § 5; August 18, 1997);

(g) Health care facilities for sixteen or more people residing which receiving therapy, counseling, or rehabilitation for physical, emotional, or mental disease or disability.

27.51.060 Accessory Uses.

Accessory uses permitted in the I-3 ~~Area Employment Center District~~ are accessory buildings and uses customarily incident to the permitted uses, except that early childhood care facilities and schools are not a permitted accessory use to a church in the I-3 ~~Area Employment Center District~~. Accessory uses involving the open storage of materials or other articles shall only be allowed in areas enclosed or otherwise adequately screened from public view with an enclosure or screen at least six feet in height. (Ord. 18438 §8; September 20, 2004; prior Ord. 17232 § 6; August 18, 1997).

27.51.070 Parking Regulations.

All parking within the I-3 ~~Area~~ Employment Center District shall be regulated in conformance with the provisions of Chapter 27.67. (Ord. 17232 § 7; August 18, 1997).

27.51.080 Sign Regulations.

Signs within the I-3 ~~Area~~ Employment Center District shall be regulated in conformance with the provisions of Chapter 27.69. (Ord. 17232 § 8; August 18, 1997).

27.51.085 Grading and Land Disturbance Regulations.

Grading and land disturbance within the I-3 Area Employment Center District shall be regulated in conformance with the provisions of Chapter 27.81. (Ord. 17618 §27; February 22, 2000.)

27.51.090 Height and Area Regulations.

Minimum area for the establishment of the I-3 ~~Area Employment Center District~~ is fifty acres. The maximum height and minimum lot requirements within the I-3 ~~Area Employment Center District~~ shall be as follows:

(a) **General Requirements.**

Table 27.51.090(a)						
	Lot Area (Sq. ft.)	Frontage	Req'd Front Yard	Req'd Side Yard	Req'd Rear Yard	Height
27.51.030(c)(3)						
Uses	0	150'	***50'	200'	200'*	55'***
27.51.030(c)(3)	0	50'	***	0'	0'	55'***
Uses involving Hazardous Materials****			*****	*****	*****	
Retail	0	50'	***50'	200'*	200'*	45'***
Office	0	50'	***50'	200'*	200'*	45'***
Conservation Uses	5,000	0'	0'	0'	0'	35'
Other	0	50'	***50'	200'*	200'*	35'
<p>* When a side or rear yard abuts a residential district (excluding (i) recorded conservation easement area and the (ii) R-5 Area), the required yard shall be 50 feet and screened in conformance with the landscape design standards adopted by the City of Lincoln.</p> <p>** When a side or rear yard of an Employment Center or an office/retail use abuts a residential district, the maximum height of any improvement located within 150 feet of the residential district shall be 35 feet.</p> <p>*** The required setbacks are shown on the Southwest Village B-2 PUD Site Plan.</p> <p>**** Hazardous Materials include substances defined as "hazardous substances", "hazardous materials", or "toxic substances" in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §9601 et seq; the Hazardous Materials Transportation Act, 49 U.S.C. §1801 et seq; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq; and in the regulations adopted and publications promulgated pursuant to said</p>						

laws.

****A land use may not use Hazardous Materials, unless the land use is setback a minimum of 300 feet from a residential building located within any residential district.

(b) Notwithstanding any contrary provision herein, when a lot abuts a recorded conservation easement area, then the minimum required side yard and required rear yard abutting the recorded conservation easement shall be a minimum of five (5) feet.

(c) There shall be a required front yard on each street side of a double-frontage lot.

(ed) There shall be a required front yard on each street side of a corner lot.

(de) Accessory buildings shall comply with the height, and front, side, and rear yard requirements of the main structure.

(ef) All required yards shall be entirely devoted to landscaping, except for necessary paving of walkways and driveways to reach parking and loading areas from a public or private street, and provided, further, that any driveways which intersect the front yard shall not be wider than thirty feet.

(fg) No loading facilities shall be located in any required yard. Loading facilities located within 150 feet of any street shall be visually screened. (Ord. 17907 §2; August 27, 2001; prior Ord. 17232 § 9; August 18, 1997).

27.51.100 Intentionally Deleted Use Permit Section.

(a) ~~Minimum Requirements. No use permit shall be granted upon any property having a total area of less than fifty acres, nor for any plan unless it is in conformance with all applicable city standards and with all regulations of the applicable sections of this chapter. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the comprehensive plan and protect the health, safety, and general welfare in the issuance of any use permit. Such conditions may include an increase in the minimum yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the I-3 Employment Center District shall apply.~~

(b) ~~Environmental Performance Standards. Any applicant for a use under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be approved by resolution of the City Council.~~

(c) ~~Landscape Plan. Before building permit approval, each application for a use permit under this section shall include a landscape plan which shall show proposed plantings in conformance with city standards in all required yard areas, open space areas, parking areas, and around proposed buildings. The Planning Director shall develop appropriate written standards for such landscape plans, which standards shall be approved by resolution of the City Council.~~

(d) ~~Application Requirements. Applications for a use permit under this section shall be filed in writing on a form provided by the city with the Planning Department. A preliminary plan shall accompany each application and shall include the following information:~~

(1) ~~Boundary survey and gross acreage;~~

(2) ~~Contour lines at intervals not to exceed five feet based on NAVD~~

~~1988. Spot elevations on one hundred foot grid shall be required to fully indicate the topography of flat land.~~

- ~~(3) — Street right of way;~~
- ~~(4) — Utility easements;~~
- ~~(5) — Adjacent land use and zoning classifications;~~
- ~~(6) — The amount of traffic to be generated and the street facilities required to accommodate said traffic;~~
- ~~(7) — Location of building envelopes within which structures may be located;~~
- ~~(8) — Vicinity map;~~
- ~~(9) — Date prepared, scale and north point;~~
- ~~(10) — Location of parking envelopes within which parking lots shall be located and stating the required number of parking stalls;~~
- ~~(11) — Proposed uses and total square feet of buildings to be located within the proposed I-3 employment center in accordance with Section 27.51.030(b);~~
- ~~(12) — Acreage and percentage of total developed building area, parking lot, open space, and similar uses;~~
- ~~(13) — Location of existing tree masses;~~
- ~~(14) — Identify vehicular ingress and egress points;~~
- ~~(15) — Building and parking set back lines;~~
- ~~(16) — Generalized grading plan;~~
- ~~(17) — On site and off site water and sanitary sewer improvements;~~
- ~~(18) — On site and off site drainage and storm sewer improvements;~~
- ~~(19) — Proposed name of the project;~~
- ~~(20) — Name, address, and telephone number of developer, certified record owner or owners, and their addresses; and legal description of the proposed use area including the number of acres.~~

~~(e) — Planning Commission Review. Upon the filing of an application together with all maps, data, and information required by this section, the City Council shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.~~

~~(f) — Planning Commission Action. After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application and may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for, and may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within sixty days from the date of referral, the applicant may appeal to the City Council requesting final action. If the City Council determines that the delay of the Planning Commission is unjustified, it shall direct the commission to act upon the~~

application no later than the commission's next regularly scheduled meeting.

~~(g) — Appeal of Planning Commission Action.~~

~~(1) — Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.~~

~~(2) — Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.~~

~~(3) — The City Council may, after public hearing, in conformity with the provisions of this title reverse or affirm, wholly or partially, or may modify the action of the Planning Commission appealed from.~~

~~(h) — Adjustment of Yard Requirements and Height Restrictions. Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, decrease the minimum yard requirements and increase the maximum height restrictions and may adjust the requirements relative to the location of buildings and required parking spaces and lot frontage set forth in this chapter consistent with adequate protection of the environment of adjacent land uses. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the application for the use permit and the requested adjustment.~~

~~(i) — Amendment. The Planning Director is authorized to approve amendments to any use permit granted under this section, including square footage of floor area and storage space in phases of development; provided that:~~

~~(1) — A request for amendment is filed with the Planning Director, together with any of the information specified in paragraph (d) above which is pertinent to the proposed amendment;~~

~~(2) — Such amendment shall not violate any regulations set forth in this title;~~

~~(3) — Such amendment may provide for up to ten percent (10%) increase in total floor area of the project over the total floor area originally permitted;~~

~~(4) — No reduction is made to the applicable setback or yard requirements;~~

~~(5) — No public land is accepted;~~

~~(6) — Such amendment shall not be contrary to the general purposes of this chapter as set forth in paragraph (a) above;~~

~~(7) — Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as an original use permit.~~

~~(j) — Building Permits, Certificates of Occupancy, and Certificates of Compliance. Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.~~

~~(k) Preexisting uses.~~

~~(1) An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this chapter shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a noneconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.~~

~~(2) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit. (Ord. 17907 §3; August 27, 2001; prior Ord. 17857 §5; June 4, 2001; Ord. 17232 § 10; August 18, 1997).~~

27.51.110 Architectural Design Standards.

(a) The buildings located within the I-3 Area shall comply with the Architectural Design Standards that are attached hereto as Exhibit "A".

(b) All buildings within the I-3 Area shall be subject to the Architectural Design Standards. Each building's elevation shall be first submitted to the property owner's architectural review committee for review and approval. Then a letter of approval from the architectural review committee (which shall describe how the elevations conform to the Architectural Design Standards) along with the building elevations shall be submitted to the Planning Director for review and approval, prior to issuance of a building permit.

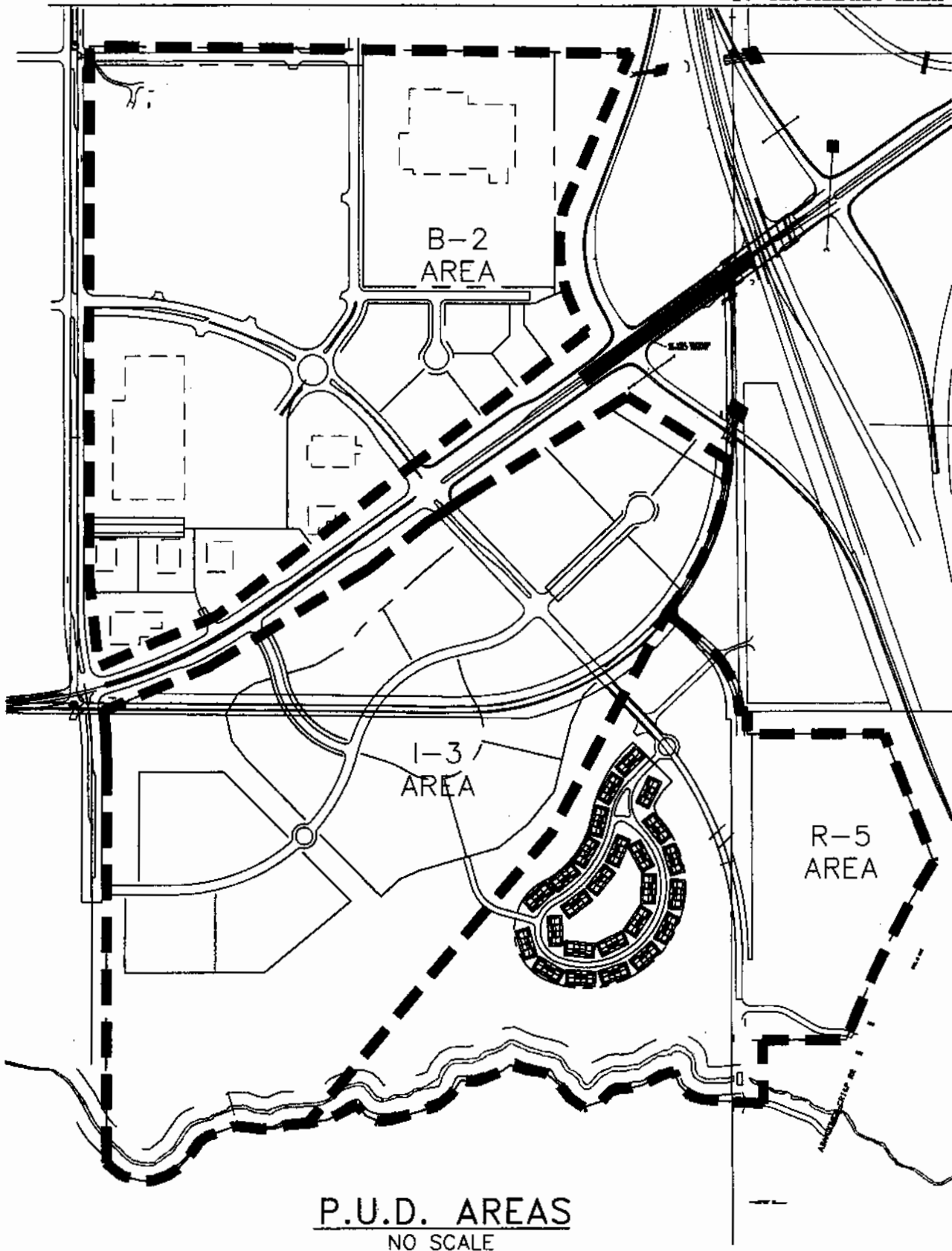
EXHIBIT A

**ARCHITECTURAL DESIGN
STANDARDS**

**Southwest Village B-2 PUD
Warlick Boulevard & U.S. Highway 77
Lincoln, Nebraska**

October 13, 2005

3. GEOGRAPHIC AREA



4. SOUTHWEST VILLAGE VISION

It is anticipated that this development will be built out with the following project types:

- Retail, Office and Commercial Buildings
- Flex Space Buildings and Light Industrial Buildings
- Office Buildings
- Residential Buildings

These building types and land uses are described in the PUD Development Plan.

As a gateway development to the City of Lincoln, it is important for Southwest Village covenants pull the diverse project types listed above together into a development that has a sense of place and visual continuity created by common:

- Style
- Site Elements
- Building Materials
- Color Palettes

Each of the unifying elements listed above are discussed in more detail within their respective sections of this document.

5. THE STYLE OF SOUTHWEST VILLAGE

I. BUILDING MASSING

A. Walls

1. All facades of each building must be designed to be architecturally interesting through the use of massing and horizontal plane changes to create shadows and depth. Building elements such as covered arcades, stepping the facade or recessed entries are suggested to create this building massing requirements. Building facades not visible from public right of ways may provide less interesting design.

B. Roofs

1. If any building incorporates a sloping roof or awning structure, the slope of that roof or awning shall be 6/12 to provide consistency through the project.
2. All buildings that have "flat" roofs shall be parapetted to hide the ballasting from public view.

II. BUILDING MATERIALS

A. Retail, Commercial and Office Buildings over 100,000 S.F. Footprint.

1. Building facades visible from the public right of ways shall be composed of following percentages of building material cumulated over all visible facades.
 - A. 50% or more but not to exceed 80%, Clay Brick or "Quick Brick" or equal, in the earth tone color ranges and Glass with natural aluminum mullions. Glass shall be tinted or reflective of a density to conceal interior furnishing in Office Buildings and Flex Space.

- B. 50% or less but not less than 20% Synthetic Stucco (EFIS), Painted Rock faced Concrete Block, Precast Concrete, or fiber cement board siding in the earth tones.
 - C. 10% of the façade may be a coordinating color material that is not listed in the previous material list.
- B. Retail, Commercial and Office Buildings under 100,000 S.F., but more than 25,000 S.F.
 - 1. Building facades visible from the public right of ways shall be composed of the following percentages of building material cumulated over all visible facades.
 - A. 75% or more, but not to exceed 90%, Clay Brick or "Quick Brick" or equal, in the earth tone color ranges and Clear Glass with natural aluminum mullions.
 - B. 25% or less, but not less than 10% Synthetic Stucco (EFIS), Painted Rock faced Concrete Block, Precast Concrete, wood siding or fiber cement board siding in the earth tones.
 - C. 10% of the façade maybe a coordinating color or material that is not listed in the previous material list.
- C. Retail, Commercial and Office Buildings under 25,000 S.F.
 - A. 90% or more Clay Brick in earth tone color ranges and glass with natural aluminum mullions. Glass shall be tinted or reflective of a density to conceal interior furnishing in Office Buildings and Flex Space.
 - B. 10% of the façade may be a coordinating color material that is not Clay Brick and Glass. Glass shall be tinted or reflective of a density to conceal interior furnishing in Office Buildings and Flex Space.
- D. Flex Space Buildings or Industrial Buildings
 - 1. Flex Space Building facades visible from the public right of ways shall be composed of the following building material cumulated over all visible facades.
 - A. 80% Decorative Block, "Quick Brick" or equivalent, or Brick and clear or tinted glass. Glass shall be tinted or reflective of a density to conceal interior furnishing in Office Buildings and Flex Space.
 - B. 10% synthetic Stucco (EIFS), painted rock faced concrete block or laminated panels in natural aluminum color.
 - C. 10% of the façade maybe a coordinating color or material that is not listed as an accent to the design.
 - 2. Facades of Flex Space Buildings not visible from public right of ways may be painted rock faced CMU.
- E. Roof Materials for all Buildings other than residential
 - 1. Any awning or sloping roof shall be constructed of standing seam metal, natural or faux tile.

F. Residential Buildings

1. Residential Building shall be composed of
 - A. At least 20% Clay Brick
 - B. No more than 20% Rock face CMU paint
 - C. Remainder Glass and Fiber Cement Board Siding
2. Building massing will be as follows:
 - A. Three story maximum height (45 feet)
 - B. The garage entrance would be setback from the main face of the building at minimum of six feet.
 - C. The streets would be 22 feet wide and the face of the garage would be setback 28 feet from the back of the curb of the private drive.
3. Roofing material shall be asphalt shingles.

6. SITE ELEMENTS

I. SITE REQUIREMENTS

- A. Public Sidewalks.
 1. All public right of ways shall be provided with a concrete walk per City of Lincoln standards. All buildings within Southwest Village must have pedestrian walkways and public walks connected to the perimeter.
- B. Buffering, a required Bufferyard plan is required.
- C. Interior Green Space
 1. A five foot wide green space shall be provided along all interior lot lines unless lots are combined.
 2. Parking lots shall be planted per City of Lincoln requirements. A minimum of 6% of the total parking lot area shall be pervious and planted with trees, shrubs and perennials.
- D. Plant Materials
 1. Plant Materials shall meet City of Lincoln's size standards.
- E. Roof Top Mechanical Screens. All roof top mechanical units shall be substantially screened from view from public right-of-ways through the use of permanent architectural screens that are integrated with the overall design of the building.
 1. The screen shall be constructed from the following:
 - a. Building Materials listed for the building's project type.
 - b. Pitched roof elements comprised of standing seam metal roofing.
- F. Ground Level Mechanical Screens. All ground level mechanical units shall be screened from view from public right-of-ways through the use of architectural screens that are integrated with the overall design of the building.
 1. The screen shall be constructed from the following:
 - a. Building Materials listed for the building's project type.

- G. Refuse Screening. All trash or refuse receptacles shall be screened from view from public right-of-ways through the use of architectural screens that are integrated with the overall design of the building and located next to the building.
1. The screen shall be constructed from the following:
 - a. Building Materials listed for the building's project type.
 2. If the refuse container is integrated with the dock area then the dock screening shall be sufficient.
- H. Dock Screening (No loading dock shall face a public R.O.W., without proper screening. All loading docks shall be screened from view from public right-of-ways through the use of one of the following:
1. Architectural screens that are integrated with the overall design of the building.
 - a. The screen shall be constructed from the following:
Building Materials listed for the building's project.
 2. Landscape screen of a density to screen 80% of the dock area from view within 3 years of planting. View shall be 80% screened all 12 months of the year.

7. COLOR PALETTES

- In order to encourage a proper balance of vitality and cohesiveness within the Southwest Village development, color ranges have been developed. The inspiration for these color ranges is native Nebraska landscape colors. Any material or paint must coordinate with these sample color ranges. Ten percent (10%) of any facade may have an accent color that is compatible with these color ranges.

8. SIGNAGE

All signage shall comply with the City of Lincoln Sign Regulations.

Signage requirements specific to the Southwest Village Development are as follows:

1. All wall signs shall be individual can letters. Color of letters is up to the Building Owner or Tenant.
2. No pole signs are allowed.

9. EXCEPTIONS

The following exceptions may be considered at the discretion of the City of Lincoln.

1. BUILDING MATERIAL EXCEPTION FOR RETAIL AND FLEX SPACE OFFICE BUILDINGS (not allowed for Office Buildings).

- a. If the building is properly screened (landscape buffer, another building within a development, etc.) so that any given façade cannot be seen from a public right-of-way, then that specific façade may be constructed entirely of secondary Building materials as outlined for that specific building type.

2. BUILDING MATERIAL EXCEPTION FOR ALL BUILDING TYPES

- a. If a particular building goes beyond the norm in complexity and detail of building forms and/or commonality of materials and colors, then the City may choose to relax the Building Material requirements (e.g. Let stucco or synthetic stucco (E.I.F.S.) become a primary building material).

Exhibit "B"

CONSERVATION EASEMENT AGREEMENT
(Preservation of Floodprone Area)

THIS CONSERVATION EASEMENT AGREEMENT is entered into as of the ____ day of ____, 2005, by and between **Dial Realty Development Corp.**, a Nebraska corporation ("Owner"), the **City of Lincoln, Nebraska** ("City"), and the **Lower Platte South Natural Resources District** ("NRD").

RECITALS

Owner is the owner in fee simple of certain land ("Real Property") legally described as: _____ Lancaster County, Nebraska, including the portions thereof referred to herein as the "Easement Area"; the Easement Area is more particularly described as follows:

Need Legal Description for conservation area (e.g., Outlot A, B, C, D and E), including LeGrande area (Lot 25) east of 1st Street.

Said Easement Area is generally located within the 100-year floodprone area as designated in the Cardwell Branch Watershed Master Plan dated ____, 2005. The Easement Area is shown on the attached Exhibit "A", which is made a part of this agreement by this reference.

The City and NRD desire to acquire and Owner is willing to convey a permanent Conservation Easement to preserve the flood storage capacity and other natural resources over the Easement Area.

NOW, THEREFORE, in consideration of _____ **AND** **NOI100 DOLLARS, (\$)**, and other good and valuable consideration, receipt of which is hereby acknowledged, Owner hereby grants and conveys to City and NRD for their benefit and the benefit of the public a conservation easement over the Easement Area to restrict the use of the Easement Area to open space to protect and preserve the floodprone area, drainageway, wetlands, and tree masses that occur on the land, to protect other water resources and biologic resources of the floodprone area as identified on Exhibit A, and to restrict development and future use of the Easement Area that will significantly impair or interfere with the open space values and natural resources of the Easement Area.

The terms, conditions, and covenants of the conservation easement hereby created are as follows:

1. Use of Easement Area.

A. Compatible Uses. The Easement Area shall be used only for purposes compatible with open space, recreational, or wetlands management practices. Nothing herein shall be construed to give the general public the right of access or use of the Easement Area. Notwithstanding subsection B, "Non-Compatible Uses," below, the following uses are compatible with the purposes of the Easement Area:

- i. Force main sanitary sewer line and related improvements to provide temporary sanitary sewer to the Southwest Village B-2 PUD and surrounding drainage basin (until gravity sanitary sewer trunk is build within the next six (6) years) as generally shown on Exhibit "A". The exact route will be approved in advance by the Director of Public Works & Utilities. The Easement Area will be restored following disturbance to the maximum extent practicable.
- ii. Gravity flow sanitary sewer line and related improvements to provide permanent sanitary sewer (which will replace the force main sanitary sewer line) as generally shown on Exhibit "A". The exact route will be approved in advance by the Director of Public Works & Utilities. The Easement Area will be restored following disturbance to the maximum extent practicable.
- iii. Roadway or utility crossings necessary for the functional uses of adjacent lands constructed in accordance with the flood regulations provided the ~~corridor~~ Easement Area is restored following disturbance to the maximum extent practicable. It is recognized that the easement creates separate areas within Lot ___ which are outside the Easement Area and which are isolated from each other by the Easement Area and that roadway and utility crossings of the Easement Area is necessary for access to all of Lot ___.
- iv. Public sanitary sewer lines generally along the stream alignment necessary for the functional uses of adjacent lands, as approved in advance by the Director of Public Works & Utilities, provided the ~~corridor~~ Easement Area is restored following disturbance to the maximum extent practicable.
- v. Trails or other public or private recreational or educational components and activities as approved in advance in the Lincoln-Lancaster Comprehensive Plan or by the Director of Public Works & Utilities.
- vi. Stream rehabilitation and water quality projects as approved in advance by the Director of Public Works & Utilities.
- vii. Protection, Maintenance and enhancement of the Easement Area.
- viii. Easement Area rehabilitation necessary to protect abutting, downstream or upstream properties as approved in advance by the Director of Public Works & Utilities.]
- ix. Exercising by people and their pets.
- x. Removal of dead, disease or dangerous trees or bushes.
- xi. Temporary access and construction easements to allow installation.

maintenance, repair and replacement of utilities and fences abutting the Easement Area conforming to the City's Design Standards

xii. Stormwater drainage and outlet improvements conforming to the City's Design Standards necessary for the functional drainage of uses of adjacent lands.

xiii. Control or removal of insects, pest and other matters that are an endanger to public health as determined in advance by the Director of the City-County Health Department.

B. Non-Compatible Uses. Subject to the Compatible Uses in subsection A above, the following uses and practices, although not an exhaustive recital of the inconsistent uses and practices, are inconsistent with the purposes of this Conservation Easement and shall be prohibited within the Easement Area:

- i. Construction or placing of roadways, buildings, camping accommodations, or mobile homes, fences, signs, billboard or other advertising material, or any other structure;
- ii. Filling, excavating, dredging, mining or drilling, removal of top soil, sand, gravel, rock, minerals, or other materials,
- iii. Building of roads, or changing in the topography of the land in any manner excepting the maintenance of foot trails the items described in subsection A above, or any work requested by the City;
- iv. Dumping of ashes, trash, garbage, or other unsightly or offensive material;
- v. Changing the topography of the land by placing of soil or other substances or materials such as landfill or dredging spoils;
- vi. Commercial development of any nature;
- vii. Intentional Human introduction of non-native plant or animal species which may compete with and result in decline or elimination of native animal species, unless approved in advance by the Director of Parks and Recreation;
- viii. Any other act which would be detrimental to the ~~scenic beauty, wildlife habitat, wetlands, the natural beauty,~~ or natural resources of the Easement Area:
- ix. Operation of motorized vehicles except as necessary in the use of the area as provided herein;
- x. The broadcast application of pesticides, herbicides and insecticides at any time, except for that which is needed for areas already historically in agricultural use at the time this easement is dedicated. Spot application of pesticides and herbicides ~~for the control of noxious weeds as provided by state law will be permitted;~~
- xi. Cultivation, planting, or drilling of row crops, small grains, and forages, ~~such as alfalfa and forage sorghum within areas that has not already~~

historically been cultivated planted in the Easement Area in agricultural use at the time of the dedication of this easement;

xii. Removal of tree masses.

2. Term. The term of this Conservation Easement will be in perpetuity unless earlier terminated pursuant to any of the following provisions',

- i. By the City and NRD pursuant to the provisions of Neb. Rev. Stat. § 76-2,113.
- ii. By the Lancaster County District Court pursuant to the provisions of Neb. Rev. Stat. § 76-2,114.

The parties agree that termination of this Agreement may be total and affect the entire Easement Area, or may be partial and result in the termination of the easement over only a portion of the Easement Area.

3. Condition of the Easement Area at Time of Grant. The condition of the Easement Area without limiting the generality of the terms is defined to mean the open space, drainageway, wetlands, tree masses, and the functional integrity of other water resources and biologic resources of the floodprone area identified on Exhibit A, as evidenced by reports, photographs and scientific documentation on file with the City's Planning Department.

4. Protection and Maintenance of the Easement Area.

A. Owner agrees to pay any real estate taxes, estate taxes or assessments levied by competent authorities on the Easement Area, including but not limited to any tax or assessment affecting the easement granted herein. Owner retains the right to challenge the assessed value of the property and to challenge the validity of an any such tax or assessment.

B. City and NRD, at their expense, shall protect, maintain and enhance the Easement Area; provided that Owner, at its expense, shall protect, maintain and enhance any private recreational or educational components and activities approved in advance by the Director of Parks and Recreation..

C. Owner shall cooperate with and assist the City and NRD at the City or NRD's cost in applying for, obtaining, protecting, maintaining and enhancing the Easement Area, including any and all surface water and ground water rights and privileges related to the Easement Area by signing applications which the City deems necessary or desirable for the management, maintenance or development of the Easement Area for the purposes provided for herein.

5. Inspections and Access by City. The City and NRD shall have the right of reasonable ingress and egress to and from the Easement Area from public roads and streets and from adjacent properties for its employees, contractors, vehicles and equipment for the purpose of revegetating and for inspecting, maintaining, protecting or enhancing the floodprone area within the Easement Area as the City or NRD may deem necessary or desirable. Any such access from adjacent areas of Lot ___ shall be used so

as to not damage adjacent areas of Lot __ or crops or improvements which are now or which in the future may be on adjacent areas of Lot __, and shall use public right-of-way or private streets to the fullest extent practicable. Such right of access will be modified as reasonably necessary upon subdivision or development of adjacent areas of Lot __.

6. Enforcement. The Owner, City and NRD may enforce the provisions of this Conservation Easement by any proceeding at law or in equity, including but not limited to, the right to require restoration of the Easement Area to the condition at the time of this grant, except for the Compatible Uses described in subsection 1 A above. The Owner, City or NRD may seek an injunction restraining any person from violating the terms of this Conservation Easement and that the City or NRD may be granted such injunction without posting of any bond whatsoever. The Owner, City and NRD do not waive or forfeit the right to take any action as they deem necessary to insure compliance with the covenants and purposes of this grant by any prior failure to act. Owner further agrees that should Owner undertake any activity requiring the approval of the City and NRD without or in advance of securing such approval, or undertake any activity in violation of the terms of this Conservation Easement that City and NRD shall have the right to enforce the restoration of that portion of the Easement Area affected by such activity to the condition that existed prior to the undertaking of such unauthorized activity. In such case, the cost of such restoration shall be paid by Owner. In any suit to enforce this Easement or for the alleged violation of this Easement, reasonable attorney fees of the successful party shall be paid by the unsuccessful party to the extent permitted by law.

7. Title to Easement Area. Owner covenants that Owner is the owner of marketable title to all of the Easement Area, has legal right, title and capacity to grant the Conservation Easement granted herein subject to easements and restrictions of record and farm tenant in possession, if any.

8. Transfer of Interest.

A. Owner's Title to Easement Area. If the land subject to this Conservation Easement Agreement or any interest therein is subsequently transferred by Owner to a third party, Owner shall use its best efforts to notify the City and NRD in writing prior to the transfer of the land and the Owner shall use its best efforts to cause the document transferring the interest to shall be made subject to this Conservation Easement Agreement.

B. City and NRD's Conservation Easement. The City and NRD, at their expense, will record this Conservation Easement. The City and NRD shall have the right to transfer this Conservation Easement to any public agency, charitable organization or trust that, at the time of transfer, is an organization qualified to assume the responsibility imposed on the City and NRD by this Conservation Easement Agreement.

9. Binding Affect. The Conservation Easement granted herein shall run with the land and shall inure to the benefit of and be binding upon the heirs, successors and assigns of Owner, City and NRD.

10. Approvals. Any approval required under this Agreement shall not be unreasonably withheld.

11. Recordation. The parties agree that this Agreement shall be duly filed by the City and NRD with the Lancaster County Register of Deeds upon execution and acceptance by the City and NRD.

12. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of the Conservation Easement and the application of such provisions to persons or circumstances other than those to which it is found to be invalid shall not be affected thereby.

13. Assignment. The Owner may assign in writing and record of record all or parts of its right, title and interest hereunder to a homeowners association properly created under Nebraska law and approved in advanced by the City Attorney. Upon such written assignment and recording, then the Owner will automatically be released from any assigned right, title or interest.

14. Owner reserves any reasonable and necessary easements or licenses for the proper platting, subdivision and development of the Owner's abutting properties; provided that, such easements or licenses shall: (i) be required only for the most direct route or smallest space reasonably feasible and in conformity with applicable codes and regulations; (ii) be limited to areas or routes so as not to interfere with the operation of permitted activities in the area in or adjacent to such easement or license areas; (iii) provide for and permit reasonable maintenance in such a manner as to not interfere with the use of areas adjacent to such easement and license areas; (iv) be subject to the Owner of the benefited lot being responsible for payment of any construction costs of any alterations or renovations related to same; and (v) be to the extent and duration necessary to assure the benefited property to be in compliance with applicable codes and laws, and to provide a reasonable and beneficial use to the benefited lot for the required purposes. Such easements and licenses reserved and recorded in subsequent instruments shall include, without in any way being intended to be limited to, such items as temporary construction access and use, utility access, areaways for utilities to the streets, or other authorizations as may be required, practical and reasonable according to the then custom.

15. Further Assurances. The parties acknowledge that the Owner will be platting, subdividing and developing the Owner's adjacent properties. Each undersigned party will, whenever it shall be reasonably requested to do so by the other, promptly execute, acknowledge, and deliver, or cause to be executed, acknowledged, or delivered, any and all such further conveyances, confirmations, instruments, or further assurances and consents as may be necessary or proper, in order to effectuate the covenants and agreements herein provided. Each of the undersigned parties shall cooperate in good faith with the other and shall do any and all other acts and execute, acknowledge and deliver any and all documents so requested in order to satisfy the conditions set forth herein and carry out the intent and purposes of this Agreement. The City and NRD will use its best efforts to consider any reasonable request by Owner to modify this Agreement; provided that the primary purposes of the Agreement is not harmed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above,

"Owner"

DIAL REALTY DEVELOPMENT CORP.,
a Nebraska corporation

By: _____
Title: _____

"City"

**CITY OF LINCOLN, NEBRASKA a
corporation**

Attest:
municipal

By: _____
City Clerk

By: _____
Coleen J. Seng, Mayor

"NRD"

**LOWER PLATTE SOUTH
NATURAL RESOURCES
DISTRICT**

By: Glenn D. Johnson, General Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this day of , 2005, by , as of Dial Realty Development Corp., a Nebraska corporation, on behalf of the corporation.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by Coleen J. Seng, Mayor of the City of Lincoln, Nebraska, a municipal corporation, on behalf of the City.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2005, by Glenn D. Johnson, General Manager, on behalf of the Lower Platte South Natural Resources District.

Notary Public

**Review Comments for
Application #: CZ05061
SOUTHWEST VILLAGE - PUD**

Comments as of: Tuesday, November 15, 2005

Status of Review: **Denied**

08/22/2005 9:04:02 AM

Reviewed By **911**

ANY

Comments: 1) Streets west of S 1st and south of O St are required to be prefixed with West of Southwest accordingly. 2) W Cardwell Rd already exists and does not align with the proposed Cardwell Dr. 3) The overuse of Cardwell with only a street type to distinguish the difference, will be extremely confusing to emergency responders. Please note there was no site plan in the attachments, paper received 08/22/08.

Status of Review: **Active**

Reviewed By **Alltel**

ANY

Comments:

Status of Review: **Active**

Reviewed By **Building & Safety**

ANY

Comments:

Status of Review: **Approved**

08/22/2005 12:27:32 PM

Reviewed By **Building & Safety**

BOB FIEDLER

Comments: **approved**

Status of Review: **Approved**

08/26/2005 9:55:43 AM

Reviewed By **Fire Department**

ANY

Comments: **After reviewing Change of Zone (PUD) # CZ05061 (PUD) CZ05062, we have no objections from the perspective of our department.**

Comments: **LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: **Brian Will** DATE: **August 29, 2005**

DEPARTMENT: **Planning** FROM: **Chris Schroeder**

ATTENTION: **DEPARTMENT: Health**

**CARBONS TO: EH File SUBJECT: Southwest Village
EH Administration CZ #05061 & #05062**

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed development with the following noted:

□ According to the submitted site plan (South of Warlock), the proposed R-5 zoning is located as close as approximately 200 feet from the proposed I-3 zoning. Depending on the type of use, more specifically the types and quantities of chemicals associated with the future uses within the I-3 PUD, the LLCHD has historically recommended at least a 300 foot separation between industrial and residential zoning for the more toxic chemicals that pose a potential threat to public health. Because the types of uses and their associated types and quantities of chemicals are unknown at this time, the LLCHD recommends the applicant provide at least a 300 foot buffer between the proposed R-5 zoning and the I-3 PUD.

□ The LLCHD advises that noise pollution can be an issue when locating commercial or industrial uses adjacent to residential zoning.

□ Lincoln Municipal Code (LMC) 8.24 Noise Control Ordinance does address noise pollution by regulating source sound levels based upon the receiving land-use category or zoning. However, the LLCHD does have case history involving residential uses and abutting commercial or industrial uses in which the commercial or industrial source does comply with LMC 8.24, but the residential receptors still perceive the noise pollution as a nuisance. The LLCHD strongly advises the applicant to become with familiar with LMC 8.24. The LLCHD advises against locating loading docks, trash compactors, etc. adjacent to residential zoning. Therefore, creative site design should be utilized to locate potential sources of noise pollution as far as possible from residential zoning.

□ Prior to demolition or renovation of any existing commercial or residential structure an asbestos survey must be conducted and ten or more working days prior to demolition/renovation a notification of demolition must be provided to the LLCHD. These are federal Environmental Protection Agency (EPA) requirements related to asbestos removal/demolition activities. The EPA does allow for one residential building exemption with four or fewer dwelling units per owner/operator. Documentation related to this matter should be submitted to Harry LeDuc with the LLCHD at 3140 N Street, Lincoln, NE 68510. Mr. LeDuc can be contacted at 441-8034.

□ All wind and water erosion must be controlled during construction. The Lower

Platte South Natural Resources District should be contacted for guidance in this matter.

□ During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.

Status of Review: **Approved**

11/14/2005 11:36:17 AM

Reviewed By **Health Department**

ANY

Comments: **Brian,**

The fax you sent me looks okay. However, we would like the following definition inserted for hazardous materials..

"Hazardous Materials are defined by any and all of these definitions Hazardous Materials as defined by Secretary of Transportation in (49 U.S.C. 5103) and materials listed in the Hazardous Materials Table 49 CFR 172.101). Hazardous Substances as defined or designated in 40 CFR 302 and table 302.4. Extremely Hazardous Substances as identified in Title III of Superfund Amendments and Reauthorization Act (SARA) of 1986 (40 CFR Part 355). Toxic Chemicals as listed and identified in Title III of SARA. Hazardous Wastes that are regulated under the Resource, Conservation and Recovery Act (40 CFR Part 261.33). Hazardous wastes in transportation are regulated by DOT (49 CFR Parts 170 - 179). Hazardous Chemicals as the United States Occupational Safety and Health Administration (OSHA) uses the term hazardous chemical to denote any chemical that would be a risk to employees if exposed in the work place. Hazardous Substances as defined by OSHA in 29 CFR Part 1910.120".

Thanks,

Status of Review: **Active**

Reviewed By **Law Department**

ANY

Comments:

Status of Review: **Active**

Reviewed By **Lincoln Electric System**

JIM HENNESSY

Comments:

Status of Review: **Active**

Reviewed By **Lincoln Police Department**

DON SCHEINOST

Comments:

Status of Review: **Active**

Reviewed By **Natural Resources District**

Any

Comments:

Status of Review: **Active**

Reviewed By **Nebraska Department of Roads**

ANY

Comments:

Status of Review: **Denied**

08/23/2005 11:55:26 AM

Reviewed By **Parks & Recreation**

ANY

Comments: 1. All outlot areas to be maintained by the developer and/or future homeowners association.

2. A 20' trail easement needs to be identified along the north side of the Cardwell Branch.

3. Provide a cross section of the trail and street on the east side of Folsom.

4. The Comprehensive Plan requires a grade separated crossing under Warlick Boulevard.

5. Provide a grade separated crossing at the Cardwell Branch where it passes under Folsom.

6. A discussion should occur with the Director of the Parks Department regarding the trail crossing through Cardwell Lane, Warlick Blvd., Private Drive and Cardwell Drive.

7. An explanation of the trunk sewer connection needs to be provided with respect to Wilderness Park located on the east side of Highway 77.

Status of Review: **Routed**

Reviewed By **Planning Department**

SARA HARTZELL

Comments:

Status of Review: **Complete**

Reviewed By **Planning Department**

RAY HILL

Comments:

Status of Review: **Active**

Reviewed By **Planning Department**

ANY

Comments:

Status of Review: **Active**

Reviewed By **Planning Department**

BRIAN WILL

Comments:

Status of Review: **Active**

Reviewed By **Public Utilities - Wastewater**

ANY

Comments:

Comments: Comments about the Southwest Village plan

In general the layout and temporary pump station concept are okay,

The Route B shown for the pump station force main is undesirable not only from WW perspective, but also parks. Route A, while maybe a bit longer has a much more accessible and ease of construction attached to it.

The proposed location for the future trunk line is not shown accurately. It will likely be further North than shown. The route will probably hug the southern property line of Block 5, lots 1-5 and run in a generally east/west direction. There may need to be a sanitary sewer easement gap in outlot B block 5 in order to continue the east/west trunk sewer alignment. The easement needed would be 40' permanent and another 60' for construction. We would expect all sanitary sewer easements to be granted at no cost.

The lift station and force main will need to comply with the lift station policy.

Capacity at the Salt Valley Trunk is not an issue.

I will comment further when more detail becomes available.

Comments: M e m o r a n d u m

☐
☐

To: ☐ Brian Will, Planning Department
From: ☐ Chad Blahak, Public Works and Utilities
Dennis Bartels Public Works and Utilities
Subject: ☐ Southwest Village PUD Change of Zone #05061 & #05062
Date: ☐ November 8, 2005
cc: ☐ Randy Hoskins

☐

Engineering Services has reviewed the submitted plans for the Southwest Village PUD, located east of Highway 77 near West Denton Road. Specific detailed plans meeting preliminary plat submittal requirements will need to be submitted and administratively approved prior to the approval of any final plats in this PUD. These plans must be in accordance with all design standards unless waived by this generic PUD. Development Services has the following general comments about this generic PUD:

Sanitary Sewer - The following comments need to be addressed.

☐ (1.1) ☐ In general, the layout and temporary pump station concept are okay.

(1.2) ☐ The Route B shown for the pump station force main in. Route A, while maybe a bit longer, has better accessibility and ease of construction.

(1.3) ☐ The proposed location for the future trunk line is not shown accurately. It will likely be further north than shown. The route will probably hug the southern property line of Block 5, lots 1-5 and run in a generally east/west direction. There may need to be a sanitary sewer easement in Outlot B Block 5 in order to continue the east/west trunk sewer alignment. The easement needed would be 40' permanent and another 60' for construction. We would expect all sanitary sewer easements to be granted at no cost.

(1.4) ☐ The lift station and force main will need to comply with the lift station policy.

☐ (1.5) ☐ Capacity at the Salt Valley Trunk is not an issue.

Water Main - The water system is satisfactory.

Grading/Drainage - The following comments need to be addressed.

☐ (3.1) ☐ Comments from Watershed Management need to be addressed.

Streets/Paving - The following comments need to be addressed.

☐ (4.1) ☐ A right turn lanes need to be shown in Folsom Street at the intersections with Cardwell Drive, Gailyn Road, and Cardwell Ridge Drive.

☐ (4.2) ☐ The drive way connection on the north side of Warlick Boulevard east of Folsom does not appear to be needed. The traffic study does not show significant trips to or from this location. The plans should be revised to remove this drive reducing maintenance costs and eliminating conflicts on a high volume and high speed roadway.

☐ (4.3) ☐ The left turn lanes in Cardwell Drive at the intersection of Southwest 4th Street do not meet standards for length. Street connections to Cardwell Drive need to

be revised to provide adequate left and right turn lane lengths.

□(4.4) □The conceptual roundabout design shown on the site plan is sufficient for this PUD. However, geometric construction and striping details will be reviewed during the Executive Order process. It does appear that additional right-of-way will be required for proper roundabout geometric design. A note should be added stating that additional right-of-way dedication at the roundabout intersection may be required at the time of final geometric design. If the desire is to show all required right-of-way with this submittal, more detailed geometric plans need to be provided for the roundabout.

□(4.5) □The review of the traffic study represents a partial review as some portions of the study were not received by Public Works until Monday November 7th. The portions in question were the analysis of the 14th and Highway 2 intersection and the 14th/Warlick/Old Cheney intersection. Although there is no site specific comments related to this additional information, it should be noted that the study indicates approximately a 20% increase in traffic at 14th and Highway 2 from the 2015 base traffic to the 2015 base plus site traffic and approximately 50% increase for the Warlick and Old Cheney intersection. Similar results were shown for the existing peak hour traffic compared to the existing plus Phase I peak hour traffic.

General - The information shown on the preliminary plat relating to the public water main system, public sanitary sewer system, and public storm sewer system has been reviewed to determine if the sizing and general method providing service is satisfactory. Design considerations including, but not limited to, location of water main bends around curves and cul-de-sacs, connection of fire hydrants to the public main, temporary fire hydrant location, location and number of sanitary sewer manholes, location and number of storm sewer inlets, location of storm sewer manholes and junction boxes, and the method of connection storm sewer inlets to the main system are not approved with this review. These and all other design considerations can only be approved at the time construction drawings are prepared and approved.

Status of Review: Active

Reviewed By Public Works - Long Range Planning

ANY

Comments:

Comments: Date:

To:

From:

Subject:

cc: 9/13/05

Brian Will, Planning Department

John Callen, Watershed Management

Southwest Village PUD review comments

Steve Henrichsen, Ben Higgins, Devin Biesecker, Chad Blahak, Lana Tolbert

Brian,

Below are Watershed Management's comments regarding the Southwest Village PUD proposal:

1. Overall the plans are unclear and there are discrepancies between the plans and the report. The plans and report need to be coordinated and resubmitted. There needs to be clear information given on the conservation easement area indicating a 2:1 ratio of floodplain land conserved vs. floodplain land developed, minimum flood corridor, floodplain and other drainage issues.
2. Floodplain area shown in the drainage report does not appear to be consistent with the PUD boundaries shown in the plans - additional floodplain is shown in the report that is outside the PUD. Also, some floodplain area accounted for in the report appears to be on property not owned by the applicants.
3. The size and shape of the floodplain does not appear to be consistent with the existing FEMA floodplain maps or the Cardwell Branch DFIRM mapping project floodprone area (these two items are the same through the proposed PUD). Also, floodway information from either source is not shown on the plans or in the report.
4. Acres of floodplain proposed to be impacted vs. acres of floodplain proposed to be conserved are not consistent between drainage report sections and figures. Also, drainage data given on the plan drawings appears to be inconsistent between existing and proposed conditions drainage plans and conservation easement planting plan.
5. Based on developable area vs. floodplain area shown on sheet 9 of 20, a ratio of 2:1 for number of acres of floodplain permanently conserved vs. number of acres developed does not appear to be achieved.
6. Lincoln Municipal Code 26.25.020 (c)(3) requires compensatory storage to be provided below the 10-year water surface elevation for storage lost below this elevation. Also, this section requires compensatory storage above the 10-year water surface elevation for storage lost above this elevation. This standard does not appear to have been met.
7. Currently proposed compensatory storage areas appear to be excavated areas where water will pond if the 100-year storm event were to occur. These areas have no mechanism to drain, as is typically required for areas of compensatory storage per the Flood Design Criteria for New Growth Areas given in Drainage Criteria Manual (DCM) Chapter 10. The drainage report does indicate that 'portions of the open

space will become water quality features with a permanent pool of water' and that these areas are shown in a 'Figure 9'. Figure 9 does not appear to have been supplied, and it is unclear whether or not these areas are intended to be permanent retention pools or wetlands. This may be acceptable given the uses of the proposed conservation easement, however, these areas should be excluded from the calculations for available compensatory storage during flooding conditions if they are intended to store water permanently.

8. It is unclear from the plans how floodwaters will reach all proposed flood storage areas. Specifically, the proposed storage areas northwest of proposed Cardwell Lane appear to be cut off from other proposed storage areas to the south.

9. The minimum flood corridor is not shown on the plans. There appears to be grading in or near the minimum flood corridor. A narrative is provided in the drainage report that indicates encroachments into the corridor occur but these areas are not identified. No specific impacts are indicated and detailed mitigation information (if necessary) is not supplied.

10. Symbols used with proposed planting details on sheet 13 of 20 do not appear to be consistent with labels shown on planting areas.

11. Drainage areas used for stormwater detention facility calculations in drainage report appear to be inconsistent with grading and drainage plans. The plans show more drainage areas reaching detention cell #1 than are accounted for in the report.

12. Outlet of closed storm drainages to undefined drainages is not acceptable unless it can be shown that the energy can be dissipated.

Recommendations and Notes:

- Flow path length for sheet flow in hydrology calculations is shown as 300 feet for all sub-basins. This is the maximum recommended flow path length for sheet flow. Appendix 2-C of the DCM includes guidance regarding sheet flow calculations and an equation for determining sheet flow path length.

- The hydrologic and hydraulic models as well as floodplain mapping for Salt Creek are currently being re-studied. Portions of this proposed development are in the Salt Creek floodplain and flood storage calculations submitted are based on the existing Salt Creek floodplain study information. Updated information from the new study should be available by December, 2005.

Comments: **Date:**

To:

From:

Subject:

cc: 11/09/05

Brian Will, Planning Department

John Callen, Watershed Management

Southwest Village PUD review comments - Revised

Steve Henrichsen, Nicole Fleck-Tooze, Ben Higgins, Devin Biesecker, Chad Blahak, Lana Tolbert

Brian,

Below are Watershed Management's revised comments regarding the Southwest Village PUD proposal based upon the 10/25/05 resubmittal:

1. Watershed Management is working with Law and the Lower Platte South NRD to review the language of the proposed conservation easement agreement. We are not currently in agreement with all of the provisions in the draft agreement, particularly the condition relating to maintenance by the City and NRD. This agreement needs to be revised to address these issues, finalized and signed by developer prior to action by City Council on the PUD (a resolution for the easement agreement should appear on the same agenda).
2. A phasing plan for the enhancement of the floodplain and wetlands in relation to the development of the site should be addressed as part of the annexation agreement and supplied to Watershed Management.
3. There are some details that appear to be missing relating to specifics of the conservation easement planting plan, such as acres of each planting type, final locations of specific enhancements, etc. These must be supplied on revised final plans.
4. Proposed lowest floor elevations must be provided for all lots to be placed within floodplain areas. After grading is completed and prior to receiving building permits, a Letter of Map Revision based on Fill (LOMR-f) must be completed for this development in order to amend the FEMA floodplain maps to accurately reflect the grading as per Lincoln Municipal Code 26.25.020 (e).
5. Several box culverts are shown near the eastern part of the site on Sheet 10 of 21 - Grading and Drainage Plan North of Warlick. Please clarify on the plans whether these are new or existing and whether they are part of this project.
6. Explain more clearly where outlet drainage from Detention Cell 3 and subarea K9 flows to.
7. Explain how possible standing water and drainage problems will be addressed for Detention Cell #4. Under the current plan, it appears additional design items to facilitate infiltration may be required.

8. A proposed 48" pipe is shown under proposed Cardwell Drive/Existing S. 1st St. at the southeast corner of the development. Clarify how drainage to this area will behave as shown on sheet 11 of 21. It appears that elevations are higher on the west, but drainage is shown as flowing towards this area.

9. The Site Plan and Conservation Easement Planting Plan identify a future Folsom St. alignment area that may conflict with the compensatory storage area. Explain how this will be accommodated.

10. Explain why flooding depths shown on sheet 9 of 21 are inconsistent with grading contours for compensatory storage area.

11. Explain which backwater elevations from Salt Creek were used and how they were mapped for the purposes of calculating available flood storage on the site under existing conditions.

12. Drainage from proposed conditions sub-basin 1A appears to enter the development from off-site. Explain how this drainage is being managed and where it is being routed to under proposed conditions.

13. Detention pond forms for proposed conditions indicate to 'See Drainage Report for Output' of Peak Discharge Results. This information does not appear to be in the paper drainage report. Please add this information to the report or clarify the location of the information.

Recommendations and Notes:

- The hydrologic and hydraulic models as well as floodplain mapping for Salt Creek are currently being re-studied. Significant portions of this proposed development are in the Salt Creek floodplain and flood storage calculations submitted are based on the existing Salt Creek floodplain study information. Updated information from the new study should be available by mid-December, 2005. This information will eventually update the FEMA floodplain maps for Salt Creek.

Status of Review: **Active**

Reviewed By **Rural Fire District**

ANY

Comments:

Status of Review: **Active**

Reviewed By **School District**

ANY

Comments:

Status of Review: **Active**

Reviewed By **US Post Office**

ANY

Comments:
